my friend and former colleague Howard Baker. I was honored to work with him in the Senate and later worked closely with him when he was President Reagan's White House Chief of Staff. He loved the Senate, and he built an impressive leadership role as majority leader. He was a skilled negotiator, an honest broker, an effective legislator, and a great steward of this institution.

I offer my deepest condolences to his wife Senator Nancy Landon Kassebaum Baker, an incredible woman, a dear friend, and a respected colleague as well. It was truly a privilege to learn from and serve alongside Howard, and I know I am far from alone among his many friends and colleagues in missing him deeply. We miss Nancy too. It was wonderful to see the two of them together. They cared a great deal for each other. He was a wonderful man, she is a wonderful woman, and I personally love both of them. We will miss him.

ADVICE AND CONSENT

Mr. HATCH. Madam President, I rise to commend the holding of the Supreme Court's decision this morning in NLRB vs. Noel Canning. The Court's decision is a critical victory for the principle that we are a nation of laws, not of men. It is a vindication of the fundamental notion that the Constitution binds us all, including even the President, and it is a triumph for the rightful prerogatives of this institution, the U.S. Senate, the authority of which has been under siege throughout the Obama years.

One of the most important powers endowed in this body by the Constitution is the requirement that nominations of principal officers receive the advice and consent of the Senate. The confirmation process provides Members of the Senate with a wide range of tools—up to and including outright refusal to confirm a nominee—in order to influence the proper execution of the laws we pass. When aggregated, these tools amount to a critical check on the workings of the executive branch.

The Senate's advice and consent rule did not rise from accident—far from it. As the Supreme Court has explained, quoting the famed historian Gordon Wood, ''The manipulation of official appointments had long been one of the American revolutionary generation's greatest grievances against executive power, because the power of appointment to offices was deemed the most insidious and powerful weapon of 18th century despotism.''

The Founders' worry about the dangers of the Executive appointment power should ring true today given many of the Obama administration's actions, including a radical set of National Labor Relations Board nominees who promised to tip the balance of the Board toward an extreme and divisive agenda, hurting both employers and employees, and a Consumer Financial Protection Bureau Director nominee poised to exercise unprecedented and unchecked power thanks to the dangerous provisions of Dodd-Frank—no checks on his removal, no congressional control over his budget, and no effective judicial review. These are exactly the sorts of circumstances that motivated the Founders' concerns about an unchecked appointment power in the Executive. They are the very reasons the Presidential nominees must obtain the Senate's consent before taking office.

The only exception to this body's power to decline its consent to a nomination is the President's power ''to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.'' But the President's power to make recess appointments is wholly contingent on what the Constitution terms ''the Recess of the Senate'' actually occurring, and the power to decide when that happens rests squarely with the legislative branch.

This is the obvious consequence of the Senate's constitutional power—conferred in article I, section 5—to determine the rules of its proceedings. And it is well supported by longstanding practice and precedent, acknowledged by the executive branch going as far back as 1790. Consider what would happen if the President could unilaterally determine when the recess of the Senate occurs. With no check on the President's discretion to declare the Senate in recess, he could employ the recess appointment power whenever the Senate refused to give immediate and unencumbered consent to his or her nominees. The advice-and-consent process would become a dead letter. The exception would swallow the rule, and the Senate would be deprived of a central tool our Nation's Founders specifically conferred to prevent Executive mischief.

The Founders realized the severity of this threat. They had fought royal abuses of the appointment power, asserting in the Declaration of Independence how the King's government had ''erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.'' As Hamilton explained in Federalist 69, ''They deliberately chose not to give the President the King's often-abused power to discontinue a session of the legislature.''

So concerned were the Framers with the legislature's power to control its own sittings that the Constitution gave each House the power to prevent the other from adjourning for more than 3 days. In essence, the Senate and the House of Representatives both have the power to prevent the recess of the Senate and thereby avoid the activation of the President's recess appointment power.

So when the Senate was confronted by the prospect of an out-of-control National Labor Relations Board and an unchecked Consumer Financial Protection Bureau led by President Obama's appointees, we were facing threats that our Founders had themselves faced and for which they had specifically provided us with the tools to resist. When we refused to act as quickly as the administration wanted and merely rubberstamp these nominees, we acted exactly as the Constitution's Framers had intended. And the House of Representatives wisely refused to consent to a recess of the annual session of the Senate, thereby refusing to grant the President authority to make lawful recess appointments.

I don't relish rejecting nominees—quite the contrary. Over the past 38 years, I have voted for the vast majority of nominees from each of the six Presidents under whom I have served and with whom I have served alongside, including President Obama. But scrutinizing the President's nominees and occasionally withholding consent when circumstances warrant represents Congress fulfilling, not abdicating, its constitutional responsibilities.

So when faced with our legitimate and lawful use of the powers endowed in the legislative branch by the Constitution, what did the Obama administration do? Did it seek to accommodate our concerns about the unconstitutional structure and unprecedented powers of the CFPB? Did the President seek to help develop a compromise package of the NLRB nominees, as Ted Kennedy and I always did? Sadly, no. Instead, President Obama simply proclaimed that he ''wouldn't take no for an answer'' despite what the Constitution may say. He chose instead to use—or rather abuse—the recess appointment power to install these four nominees, including two who had been nominated only 2 weeks before—hardly long enough for the Senate to vet them thoroughly. But, of course, we were not in ''the Recess of the Senate'' that the Constitution requires to activate the recess appointment power. Even the Solicitor General admitted that a 3-day adjournment was too short to allow the President to bypass the Senate lawfully.

Instead, President Obama audaciously claimed the power to decide for himself when the Senate was in recess and determined that in his personal opinion, our so-called pro forma sessions during this period did not really count as sessions of the Senate, at least for the purposes of the Constitution's requirements.

But during these sessions the Senate was fully capable of engaging in its business. Indeed, during a similar session the previous fall, the Senate twice passed legislation that President Obama himself signed. We have also used these sessions to appoint conferees, to read calendar bills, and to engage in other such activity characteristic of the Senate operating in session. While the Senate planned to conduct no subsequent business under a unanimous consent agreement, even the Obama administration admitted

that there was a possibility that we might decide otherwise. Whether the Senate chooses to conduct business has no relevance here. Instead, it is the ability of the Senate to conduct business if it so chooses that matters.

Faced with this reality, the Obama administration even argued that the Senate, by refusing to adjourn for more than 3 days, could not deny the President his recess appointment power—as if he was owed the opportunity to use this power.

This argument turns basic structure of Presidential appointments on its head, as if our advice-and-consent role were merely an inconvenience to be avoided rather than the organizing principle of how the entire constitutional process is designed to work. The Constitution does not create in the President an endlessly flexible power to bypass Congress when he disagrees with us. In fact, it does exactly the opposite: It vests in Congress both the power and the responsibility to resist a President's ill-advised policies and Executive overreach.

The actions and arguments advanced by the Obama administration represent a direct assault on the Constitution's division of powers between the different branches. This brazen power grab takes President Obama's already audacious overreach to a new level.

I applaud the Supreme Court's willingness to fulfill its constitutional obligations and check this abuse of power by the White House. While I agree most with the reasoning of Justice Scalia's concurrence, which respects the fixed and discernible meaning of the Constitution's text and its controlling power, the unanimous nature of this decision reflects just how egregious the President's action was.

But those of us who care about checking the Obama administration's overreach cannot place our faith in the courts alone, although they must play an important role. Too often this administration has been crafty in implementing its breaches of the law to avoid judicial review, frequently structuring its overreach to prevent any plaintiff from having any legal standing to sue in court. This White House has even used its role in the legislative process to advance provisions that eliminate the potential for judicial review, as it did in Dodd-Frank. And when the courts have found legitimate occasion to scrutinize President Obama's overreach, the administration has often fought to keep litigants out of court, as in the Fast and Furious litigation.

Perhaps most disturbing is what happened with the DC Circuit, the second most important court in the land that oversees our massive regulatory state, the court that originally held the President's appointments unconstitutional. When the DC Circuit tried to hold the Obama administration accountable to the law and the Constitution, President Obama and his allies sought—in their own words—to ''switch the majority'' on the court and to ''fill up the D.C. Circuit one way or another.''

In the rush to eliminate any possible judicial obstacle to accountability by packing the DC Circuit, the Obama administration ran roughshod over the rules and traditions of this body by blowing up the filibuster. Whether through unilaterally changing the Senate rules or abusing the recess appointment power, the President and his allies have demonstrated a willingness to work untold and permanent damage to the institutions of this great body and to our constitutional system itself.

With such a powerful and aggressive President, no single institution can restore the constitutional checks on President Obama's often lawless exercise of power. Restoring constitutional government will require great effort by all of us: The courts, the Congress, and most importantly the voting public. That is why it is essential for my colleagues on both sides of the aisle to stand and defend the institutional prerogatives of the Senate. That is every Senator's sworn duty under the Constitution.

Many of my colleagues—even those with whom I rarely agree—have the potential to be great Senators, worthy stewards of this institution, zealous guardians of its prerogatives and true defenders of its role in our constitutional system of government.

Sadly, whether blinded by partisan loyalty to the President or too inexperienced to understand the Senate from any other perspective than having a like-minded Senate majority and President, my colleagues on the other side of the aisle have allowed—even facilitated—this administration's attempts to break down the constitutional checks on Executive power. Bob Byrd must be rolling over in his grave. He would never allow the Senate's power to be as diluted and dissipated as it has been during this Presidency. He would have stood up to them. He would have taken the Senate's prerogatives and made them very clear to this President and anybody else who tried to invade the Senate's prerogatives—and I might add constitutional prerogatives at that.

We must all realize what is at stake. This is not some petty turf war. As Madison warned in Federalist 47, ''The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.''

To disregard this central principle of constitutional government is to abolish the barriers protecting us from arbitrary government action and to undermine the rule of law.

We in the Congress should make no apology for protecting the legal prerogatives of the body in which we serve, for as Madison counseled in Federalist 51: ''[t]he great security against a gradual concentration of the several powers in the same department consists of giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.''

If this body—and constitutional government generally—are to maintain a meaningful role in preserving liberty, we must all realize the importance of connecting the President's unlawful and illegitimate attempts to assert power. We must use the rightful and legitimate constitutional authorities that the Founders gave us to stand and fight back.

This is important. This is not just a battle between the two sides. This is not just an itty-bitty, little problem. This is one that has thwarted the intentions of the Founders to have three separated powers, each with its own duties and responsibilities, not infringed by the other powers that disregard the duties and responsibilities of the legislative branch.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING MEREDITH MELLODY

Mr. REID. Madam President, it is always rewarding to see people go on to bigger and better pursuits in their careers, unless, of course, we depend on them. And for almost my entire time as majority leader here in this body, one of the people I have depended on is Meredith Mellody. Isn't that a great name, Meredith Mellody. She has been an important part of the Democratic floor staff for that entire time.

For 8 years she has been here in the Senate, working late hours on the floor, sending me, among other things, the wrapup—she did that for a while—what happened during the day. It is tedious, but it is important, and we did it every day. She has been in the cloakroom making sure the wheels of this body continue turning. She comes from a political family. She comes, as I recall, from Scranton.

Anyway, I am grateful for her hard work and her dedication over the years. We all depend on her and have depended on her, and we are very thankful for her service.

She is leaving the Senate to pursue opportunities in the private sector, and that is important. But the main reason she is leaving—that I don't question, anyway, recognizing this is very important to her, and it is probably one of the most important things she has ever done—if not the most important—she is going to get married. I have already congratulated her.

But it is really sad to see these people who have become a part of our family go. She is going to be successful in